

PETER STIRBA (Bar No. 3118)
MATTHEW STROUT (Bar No. 16732)
STIRBA, P.C.
215 South State Street, Suite 750
P.O. Box 810
Salt Lake City, UT 84110-0810
Telephone: (801) 364-8300
Fax: (801) 364-8355
Email: mstrout@stirba.com

Attorneys for Petitioner Kelly Laws

**IN THE SEVENTH JUDICIAL DISTRICT COURT
IN AND FOR SAN JUAN COUNTY, STATE OF UTAH**

KELLY LAWS,

Petitioners,

v.

WILLIE GRAYEYES,

Respondent.

COMPLAINT

Case No. _____

Judge _____

Petitioner Kelly Laws, by and through his undersigned counsel, Stirba, P.C., hereby complains and alleges as follows:

PARTIES

1. Petitioner Kelly Laws (“Mr. Laws”) is a resident and registered voter of San Juan County, State of Utah. Mr. Laws was the Republican Party candidate for the office of San Juan County Commissioner, District 2, in the 2018 general election.

2. Respondent Willie Grayeyes was the Democratic Party candidate for the office of San Juan County Commissioner, District 2, in the 2018 general election. After the election, Mr. Grayeyes was declared the winner.

3. Mr. Grayeyes is a resident of the State of Arizona, not of the State of Utah, thus he is ineligible to run for, or serve, as a San Juan County Commissioner.

JURISDICTION AND VENUE

4. Jurisdiction in this Court is proper pursuant to Utah Code Ann. §§ 78A-5-102(1) and 20A-4-403(1)(a).

5. Venue in San Juan County is proper pursuant to Utah Code Ann. § 20A-4-403(1)(a).

GENERAL ALLEGATIONS

6. On March 9, 2018, Mr. Grayeyes filed a Declaration of Candidacy for the office of San Juan County Commissioner, District 2 in the 2018 general election.¹

7. District 2 includes Navajo Mountain, which has a total population of approximately 350 people.

8. In his Declaration of Candidacy, Mr. Grayeyes swore that he resides near the Navajo Mountain Chapter House in Utah. Specifically, he stated, “I do solemnly swear that: I

¹ See Declaration of Candidacy, attached hereto as Exhibit A.

will meet the qualification to hold the office, both legally and constitutionally, if selected; I reside at 17 miles . . . on Paiute Mesa, Utah from Nav. Mtn. Chapter Hse.”²

9. Mr. Grayeyes subsequently executed another declaration, dated April 19, 2018, where he swore under penalty of perjury that he “maintain[s] [his] full-time residency at Navajo Mountain in San Juan County, Utah.”³

10. In the April 19, 2018 declaration, Mr. Grayeyes also swore that “Navajo Mountain is [his] principal place of residence” and that he has “lived in Navajo Mountain, Utah, almost [his] whole life.”⁴ Mr. Grayeyes provided the latitude/longitude coordinates for the home he claimed to reside at: 37.084477, -110.626033, and he swore that he has “resided at this home for at least 20 years”⁵

11. The above coordinates correspond to a home located near Piute Mesa in the Navajo Mountain area in Utah. The home was owned by Mr. Grayeye’s aunt before she passed away (hereafter, “Piute Mesa Home”).

12. Contrary to Mr. Grayeyes’ two sworn declarations, Mr. Grayeyes does not reside at the Piute Mesa Home. In fact, Mr. Grayeyes does not reside in Utah at all. Rather, he resides in Arizona.

² *Id.*
³ Declaration of Willie Grayeyes, at ¶ 4, attached hereto as Exhibit B.
⁴ *Id.* at ¶ 5-6.
⁵ *Id.* at ¶ 8, 10.

13. Mr. Grayeyes has an Arizona driver's license, which he previously renewed at least three times.⁶ Mr. Grayeyes does not have a Utah driver's license, which is required by Utah law to be obtained by anyone who claims to be a Utah resident.⁷

14. Not only does Mr. Grayeyes have an Arizona driver's license, but he also owns a home there. Mr. Grayeyes purchased a home in Page, Arizona in 1981 with his wife as joint tenants. Upon information and belief, Mr. Grayeyes and his wife raised their children there. Mr. Grayeyes' wife passed away in 1988, but Mr. Grayeyes still owns the home, and all property tax bills are sent to Mr. Grayeyes at his post office box in Page, Arizona.⁸

15. The property tax bills state that the home is classified as a "primary residence."⁹

16. In addition to owning a home in Page, Arizona, Mr. Grayeyes spends several months of the year in Tuba City, Arizona at a mobile home owned by his girlfriend, Victoria Bydone. Mr. Grayeyes also maintains an office in Tuba City.

17. Mr. Grayeyes owns a horse, which he keeps at the home of his uncle, Harry Nimrock. Mr. Nimrock lives in Arizona, and Mr. Grayeyes sometimes stays the night there.

18. An investigation conducted by San Juan County Deputy Colby Turk confirms the foregoing. Deputy Turk was assigned to investigate Mr. Grayeyes' residency after an objection

⁶ See License Report, attached hereto as Exhibit C.

⁷ See Request for MVR, attached hereto as Exhibit D (stating that the Utah Office of Driver License Services has no record of Mr. Grayeyes having a Utah driver's license); Utah Code § 53-3-202(1) (stating that Utah residents must get a Utah license to operate a motor vehicle in the state).

⁸ See Deed, attached hereto as Exhibit E; Property Tax Records, attached hereto as Exhibit F.

⁹ See Exhibit F.

to Mr. Grayeyes' candidacy was filed by a resident of San Juan County on the grounds that Mr. Grayeyes lives in Arizona and is therefore not eligible to hold office in San Juan County.

19. On March 27, 2018, Deputy Turk spoke to numerous people in and around Navajo Mountain and Piute Mesa in Utah. These conversations were captured on Deputy Turk's department-issued body camera.

20. All of the individuals Deputy Turk spoke to in the Navajo Mountain area who knew where Mr. Grayeyes lives stated that he lives in Arizona and/or does not live in or around Navajo Mountain. None of them stated that Mr. Grayeyes lives in Navajo Mountain or anywhere else in Utah.

21. For example, the Community Services Coordinator for the Navajo Mountain Chapter House, Lorena Atene, told Deputy Turk that Mr. Grayeyes' "place of residence isn't here, it's in Tuba City," which is in Arizona. Ms. Atene further stated that Mr. Grayeyes is the secretary treasurer of the Navajo Mountain Chapter, but he "commutes back and forth" from Tuba City.¹⁰

22. Upon information and belief, Ms. Atene knows where Mr. Grayeyes lives because she knows Mr. Grayeyes and sees him at Navajo Mountain Chapter meetings.

23. Mr. Grayeyes' sister, Rose Johnson, told Deputy Turk that Mr. Grayeyes does not live in Utah. Deputy Turk met with Ms. Johnson at the Navajo Mountain Community School, which is where Ms. Johnson works. After introducing himself, Deputy Turk said to Ms. Johnson,

¹⁰ See Body Camera Footage, Video #2, at 1:44-2:32, attached hereto as Exhibit G. See also San Juan County Sheriff's Office Deputy Report for Incident 1803-0141, at page 3, attached hereto as Exhibit H.

“I was told that you could tell me where your brother Willie Grayeyes lives.” Ms. Johnson replied, “He live in Tuba...he live in the trailer.” Deputy Turk then asked, “In Tuba City?” Ms. Johnson replied, “Yeah.”¹¹

24. Deputy Turk asked Ms. Johnson how long Mr. Grayeyes has lived in Tuba City, and she said that she does not know. However, another school employee who was present for the conversation stated that Mr. Grayeyes has lived in Tuba City for “maybe two, three years.”¹²

25. Ms. Johnson then mentioned that when Mr. Grayeyes worked “at Inscription House, he would go back and forth to Tuba.”¹³ The Inscription House Chapter is located in Tonalea, Arizona.

26. Ms. Johnson then began speaking in Navajo and mentioned the name “Victoria.” Accordingly, upon information and belief, when Ms. Johnson stated that Mr. Grayeyes lives in a trailer in Tuba City, Arizona, she was referring to the trailer owned by Mr. Grayeyes’ girlfriend, Victoria Bydone.

27. Ms. Johnson added that sometimes Mr. Grayeyes stays at her house, which is located in Navajo Mountain, Utah, but “just for over two nights, then he go.”¹⁴

28. Earlier in the day, Deputy Turk had spoken to some of Ms. Johnson’s neighbors. Ms. Johnson lives in a housing development in Navajo Mountain where there are numerous homes that are in close proximity to one another, as shown below in Figure 1.

¹¹ Exhibit G, Video #7, at 2:19-2:39; Official Transcript of Electronic Recording (Rose Johnson, March 27, 2018), at 3:6-17, attached hereto as Exhibit I. *See also* Exhibit H, at page 5.

¹² Exhibit G, Video #7, at 4:30-4:54; Exhibit I, at 5:5-16. *See also* Exhibit H, at page 5.

¹³ Exhibit G, Video # 7, at 4:55-5:03; Exhibit I at 5:17-19.

¹⁴ Exhibit G, Video #7, at 5:30-5:40; Exhibit I at 6:9-16. *See also* Exhibit H, at page 5.



*Figure 1: View of neighborhood from out front of Rose Johnson’s house.*¹⁵

29. One neighbor, who lives immediately next to Ms. Johnson, said that Mr. Grayeyes lives “somewhere in Tuba.”¹⁶ Later in the conversation, the neighbor once again stated that Mr. Grayeyes lives in Tuba City.¹⁷

30. A man who was standing outside of a house across the street from Ms. Johnson’s home told Deputy Turk that Mr. Grayeyes “is from here” originally but “he doesn’t live here.” Deputy Turk asked him if Mr. Grayeyes lives in Tuba City, and the man said, “yeah, he is from all over,” and he added that Mr. Grayeyes has houses in Page, Arizona and Cameron, Arizona.¹⁸

¹⁵ See Exhibit G, Video #3, at 3:38.

¹⁶ Exhibit G, Video #3, at 1:21-1:32. See also Exhibit H, at page 4.

¹⁷ Exhibit G, Video #3, at 1:54-2:00. See also Exhibit H, at page 4.

¹⁸ Exhibit G, Video #3, at 4:20-4:31, 5:58-6:26. Exhibit H, at page 4. Both Page and Cameron, Arizona are located in Coconino County. The Coconino County Recorder’s Office has no record of Mr. Grayeyes owning a home in Cameron. However, Cameron is located on the

31. During the conversation described in paragraph 30, above, a woman came out of the house and said, “Once in a great while [Mr. Grayeyes] comes around,” but she stated that she does not know where he lives.¹⁹

32. Deputy Turk also spoke to other individuals elsewhere in the Navajo Mountain area. For example, a man named Leonard, who stated that he has lived in the area his entire life, said that Mr. Grayeyes does not live in the area.²⁰ In addition, Deputy Turk spoke to two individuals sitting in a truck parked in the vicinity of the Piute Mesa Home. They told Deputy Turk that they live a little bit south of where they were parked. Deputy Turk asked them if they know where Mr. Grayeyes lives, and they told him that the Grayeyes family has property in the area, but it is abandoned, and no one lives there. They also said that when Mr. Grayeyes comes to Navajo Mountain, he stays with his sister, Rose Johnson, but he does not live there.²¹

33. Alex and Sylvia Bitisinnie also reside near the Piute Mesa Home. Specifically, they live approximately two miles from it. Alex is a former president of the Navajo Mountain Chapter, and Sylvia is his wife. Alex and Sylvia know everyone who lives in Navajo Mountain. There is only one road going in and out of the area in which the Piute Mesa Home is located, thus they see everyone who comes and goes. Alex and Sylvia never see Mr. Grayeyes on the

Navajo Nation reservation, and the Navajo Nation maintains its own property records. Counsel for Petitioner requested any and all property records pertaining to Mr. Grayeyes from the Navajo Nation, but a Navajo Nation representative informed counsel that it would not respond to counsel’s request without a court order.

¹⁹ Exhibit G, Video #3, at 6:59-7:21; Exhibit H, at page 4.

²⁰ Exhibit G, Video # 6, at 2:12-3:08; Exhibit H, at page 5.

²¹ Exhibit G, Video #4, at 22:28-24:25; Exhibit H, at page 4.

road, around the Piute Mesa Home, or in the Navajo Mountain area in general. The last time that Alex saw Mr. Grayeyes was in Tuba City, Arizona.

34. On March 28, 2018, the Kayenta District Police contacted the San Juan County Sheriff's Department and stated that they had sent an officer out to Navajo Mountain the prior evening to check the area for Mr. Grayeyes, and they had been told that Mr. Grayeyes lives near a car wash in Tuba City, Arizona.²²

35. On April 4, 2018, Deputy Turk spoke to Mr. Grayeyes at the Twin Rocks Café in Bluff, Utah. Mr. Grayeyes admitted that he does not live at the Piute Mesa Home, which is contrary to what he averred in his two sworn declarations.

36. During their conversation, which was captured on Deputy Turk's body camera, Mr. Grayeyes stated that he is on the road "almost all the time" in his capacity as secretary treasurer for the Navajo Mountain Chapter. He stated that when he is in Utah, he stays with his sister, Rose Johnson. Mr. Grayeyes further claimed that he stays with his sister "60, 70 percent of the time."²³

37. Mr. Grayeyes' claim that he stays with his sister in Utah 60 to 70 percent of the time is contrary to his sister's statement that he stays with her for "just for over two nights, then he go."

38. During his conversation with Deputy Turk, Mr. Grayeyes also said that he sometimes stays with Victoria Bydone in Tuba City, Arizona, and that he has an office in Tuba

²² See Exhibit H, at page 6.

²³ Exhibit H, at page 7; Exhibit G, Video #10 at 5:51-6:00; Official Transcript of Electronic Recording (Willie Grayeyes, April 4, 2018), at 3:18-4:17, 7:23-8:19, attached hereto as Exhibit J.

City. Specifically, he said, “I have an office there [in Tuba City]. I travel from there to Navajo Mountain and – going all over the place. I don’t have a place . . . in Tuba, I just stay with a lady.”²⁴ Mr. Grayeyes then clarified that the “lady” he stays with is Victoria Bydone.²⁵

39. Mr. Grayeyes added that he sometimes stays with his uncle, Harry Nimrock, in Arizona because Mr. Grayeyes keeps his horse there.²⁶

40. Deputy Turk asked Mr. Grayeyes when he went to the Piute Mesa Home last. Mr. Grayeyes responded, “Probably in the fall when I hauled water out there for the cattle.”²⁷ Later in the conversation, Mr. Grayeyes added, “I don’t have the time to get the car back over there.”²⁸

41. Deputy Turk then said to Mr. Grayeyes, “You don’t live on Piute Mesa, you stay with your sister sometimes and stay with Victoria in Tuba City, and then you’re traveling around.” Mr. Grayeyes responded, “Yeah.”²⁹

42. At no point during the conversation did Mr. Grayeyes mention that he owns a home in Page, Arizona.

43. The car that Mr. Grayeyes drove to the meeting with Deputy Turk had an Arizona license plate and was registered to Victoria Bydone in Tuba City, Arizona.³⁰

44. On April 24, 2018, approximately three weeks after Deputy Turk spoke to Mr. Grayeyes, Deputy Turk went to the Piute Mesa Home. He had previously visited the home on

²⁴ Exhibit J, at 4:17-25. Exhibit G, Video #10, at 2:40-2:56; *See also* Exhibit H, at page 7.
²⁵ *See* Exhibit J at 5:1-5:8; Exhibit G, Video #10, at 2:55-2:58. *See also* Exhibit H, at page 7.

²⁶ Exhibit H, at page 7; Exhibit J, at 6:10-25; Exhibit G, Video #10, at 4:16-4:25.

²⁷ Exhibit J, at 6:5-9; Exhibit G, Video #10, at 4:03-4:10. *See also* Exhibit H, at page 7.

²⁸ Exhibit J at 9:19-23; Exhibit G, Video #10, at 7:14-7:18. *See also* Exhibit H, at page 7.

²⁹ Exhibit J at 10:19-24; Exhibit G, Video #10, at 7:22-7:31. *See also* Exhibit H, at page 7.

³⁰ Exhibit H, at page 7.

March 27, 2018, and no one was home.³¹ Similarly, on April 24, no one was home, and everything appeared the same as it had been before.³²

45. In light of the foregoing, Mr. Grayeyes is a resident of Arizona, not Utah. Accordingly, Petitioner Kelly Laws respectfully requests that the Court annul and set aside the election and declare the San Juan County Commissioner Seat for District 2 vacant.

FIRST CLAIM FOR RELIEF
Utah Code Ann. § 20A-4-402(1)(b) and (1)(g)

46. Petitioner incorporates by reference paragraphs 1-45, above, as if fully set forth herein.

47. The Utah Election Code provides the grounds for an election contest. An election contest can be brought by any individual registered to vote in the jurisdiction in which the election was held. Utah Code Ann. § 20A-4-402(1)(a) and (1)(b)(ii).

48. The election at issue in the present case was for the District 2 San Juan County Commissioner seat. Petitioner Kelly Laws is, and was at all relevant times, registered to vote in that county and district.

49. The Utah Election Code states that the election of any person to public office may be contested “when the person elected was not eligible for the office at the time of the election” or when “the candidate declared elected is ineligible to serve in the office to which the candidate was elected.” Utah Code Ann. § 20A-4-402(1)(b) and (1)(g).

³¹ See Exhibit G, Video #4, at 30:00-31:08.

³² See San Juan County Sheriff’s Office Law Supplemental Narrative, at page 1, attached hereto as Exhibit K. See also Exhibit G, Video # 11, at 0:00-7:14; Exhibit G, Video #12.

50. An individual is not eligible to run for or hold office if they do not meet the residency requirements for that office.

51. Utah Code Ann. § 17-16-1 provides the eligibility requirements for all county offices. It states, in relevant part, that a person filing a declaration of candidacy for a county office shall:

(a) be a United States citizen;

(b) . . . as of the date of the election, have been a resident *for at least one year* of the county . . . in which the person seeks office; and

(c) be a registered voter in the county . . . in which the person seeks office.

Id. (Emphasis added).

52. A county officer must remain a resident of the county for the duration of their term, and if they at any time establish their principal place of residence outside of the county, the office becomes “automatically vacant.” Utah Code § 17-16-1(2)(b).

53. The Utah Election Code empowers a court hearing an election contest to annul and set aside an election if it determines that the winning candidate was not eligible to run for or hold office, such as if the winning candidate is not a Utah resident. *See* Utah Code § 20A-4-404(4)(c).

54. An individual is a resident of Utah if: “(i) the person's principal place of residence is within Utah; and (ii) the person has a present intention to maintain the person's principal place of residence in Utah permanently or indefinitely.” Utah Code § 20A-2-105(3)(a).

55. A person’s principal place of residence is the “single location where a person’s habitation is fixed and to which, whenever the person is absent, the person has the intention of returning.” § 20A-2-105(1)(a). A person can only have one principal place of residence at a time,

and they do not lose their principal place of residence until they have established a new one. § 20A-2-105(5). A person changes their principal place of residence if they act “affirmatively to move from the state or a precinct in the state” and have the “intent to remain in another state or precinct.” *Id.*

56. Courts consider any and all relevant factors in determining whether an individual is a resident of Utah, including, without limitation, where the individual usually sleeps, the location of real property owned by the individual, the individual’s residence for the purposes of taxation, and the state in which the individual holds a driver’s license.

57. Mr. Grayeyes’ was not eligible to run for, and is not eligible to serve as, a San Juan County Commissioner because his principal place of residence is not currently in Utah, nor was it in Utah for at least one year prior to the election.

58. Mr. Grayeyes has been an Arizona resident for nearly 40 years. He established his Arizona residency in 1981 when he purchased a home in Page, Arizona as a joint tenant with his late wife. Mr. Grayeyes still owns the home and pays property taxes on it. Mr. Grayeyes also sometimes stays with his girlfriend in Tuba City, Arizona. He also maintains an office in Tuba City.

59. Mr. Grayeyes owns a horse, which he keeps at his uncle’s house in Arizona. Mr. Grayeyes sometimes stays the night there.

60. Numerous individuals, including Mr. Grayeyes’ sister, confirmed in video-recorded conversations that Mr. Grayeyes lives in Arizona, not Utah. Indeed, Mr. Grayeyes admitted to Deputy Turk that he does not live at the Piute Mesa Home, contrary to the representations that Mr. Grayeyes made in two sworn declarations.

61. Mr. Grayeyes holds an Arizona license, which he previously renewed at least three times, and he has never held a Utah driver's license. If Mr. Grayeyes were a resident of Utah, he would be required by law to obtain a Utah driver's license to operate a vehicle on Utah roads. *See* Utah Code § 53-3-202(1).

62. The fact that Mr. Grayeyes sometimes stays with his sister, Rose Johnson, in Utah does not make him a Utah resident. Mr. Grayeyes' claim that he spends 60 to 70 percent of his time at Ms. Johnson's house is belied by Ms. Johnson's statement that he stays "just for over two nights." Moreover, Ms. Johnson's neighbors, as well as other individuals in the Navajo Mountain area, told Deputy Turk that Mr. Grayeyes lives in Arizona.

63. The foregoing evidence demonstrates that Mr. Grayeyes has been a long-established Arizona resident, and he has not "acted affirmatively" to move to Utah or otherwise establish residency in Utah.

64. In light of the foregoing, Mr. Grayeyes' principal place of residence was not in Utah one year before the election, at the time of the election, at the time he was declared the winner of the election, or at any other time. Accordingly, he is not a resident of Utah and was not eligible to run for San Juan County Commissioner and is not eligible to hold that office. Petitioner therefore respectfully requests that the Court annul and set aside the election and declare the San Juan County Commissioner seat for District 2 vacant.

PRAYER FOR RELIEF

WHEREFORE, Petitioner hereby demands that judgment be entered in his favor, and against Respondent, as follows:

A. For an order annulling and setting aside the election;

- B. For an order declaring that the office of San Juan County Commissioner, District 2 is vacant;
- C. For an order declaring that Mr. Grayeyes' principal place of residence is outside of Utah;
- D. For an order declaring that Mr. Grayeyes is ineligible to hold office in Utah;
- E. For all of Petitioners' costs and reasonable attorney's fees and expenses in connection with litigating this action as may be allowed at law or in equity;
- F. For such other and further relief as the Court deems just, equitable, or proper.

DATED: December 28, 2018

STIRBA, P.C.

/s/ Matthew Strout
Peter Stirba
Matthew Strout

Attorneys for Petitioner Kelly Laws